

JOURNAL OF THE SENATE

EIGHTY-EIGHTH SESSION

TWENTY-SECOND DAY

STATE OF SOUTH DAKOTA
Senate Chamber, Pierre
Wednesday, February 13, 2013

The Senate convened at 2:00 p.m., pursuant to adjournment, the President presiding.

The prayer was offered by the Chaplain, Pastor Josh Baumann, followed by the Pledge of Allegiance led by Senate page KayDe Roth.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

MR. PRESIDENT:

The Committee on Legislative Procedure respectfully reports that the Secretary of the Senate has had under consideration the Senate Journal of the twenty-first day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Corey Brown, Chair

Which motion prevailed.

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1 Also MR. PRESIDENT:

2 The Committee on Transportation respectfully reports that it has had under consideration
3 SB 219 and 220 which were deferred to the 41st Legislative Day.

4 Respectfully submitted,
5 Mike Vehle, Chair

6 Also MR. PRESIDENT:

7 The Committee on Taxation respectfully reports that it has had under consideration SB 199
8 and returns the same with the recommendation that said bill be amended as follows:

9 199oa

10 On the printed bill, delete everything after the enacting clause and insert:

11 "Section 1. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 All property or any portion thereof owned by a labor union and used exclusively for an
14 educational purpose is exempt from taxation. To receive the exemption, a labor union shall be
15 recognized as an exempt organization under section 501(c)(5) of the United States Internal
16 Revenue Code, as amended and in effect on January 1, 2013. For purposes of this section,
17 educational purpose, means apprenticeship or training programs that have been accredited or
18 approved by the Bureau of Apprenticeship and Training within the United States Department
19 of Labor. However, if any such property consists of improved or unimproved property located
20 within a municipality not occupied or directly used in carrying out the primary objective of the
21 labor union owning the same, the property shall be taxed the same as other property of the same
22 class is taxed. However, if any such property consists of agricultural land, the property shall be
23 taxed the same as other property of the same class is taxed."

24 199ota

25 On page 1, line 1, of the printed bill, delete "all" and insert "certain".

26 And that as so amended said bill do pass and be placed on the consent calendar.

27 Also MR. PRESIDENT:

28 The Committee on Taxation respectfully reports that it has had under consideration
29 HB 1090 which was deferred to the 41st Legislative Day.

30 Respectfully submitted,
31 Ryan Maher, Chair

1 Also MR. PRESIDENT:

2 The Committee on State Affairs respectfully reports that it has had under consideration
3 SB 186 and returns the same with the recommendation that said bill do pass.

4 Also MR. PRESIDENT:

5 The Committee on State Affairs respectfully reports that it has had under consideration the
6 nomination of James E. Putnam of Douglas County, Armour, South Dakota, to the South
7 Dakota Lottery Commission and returns the same with the recommendation that the Senate
8 advise and consent to the confirmation of said appointment and place on the consent calendar.

9 Also MR. PRESIDENT:

10 The Committee on State Affairs respectfully reports that it has had under consideration
11 SB 112 and 113 which were tabled.

12 Also MR. PRESIDENT:

13 The Committee on State Affairs respectfully reports that it has had under consideration
14 SB 197 and 214 which were deferred to the 41st Legislative Day.

15 Respectfully submitted,
16 Larry Rhoden, Chair

17 **MESSAGES FROM THE HOUSE**

18 MR. PRESIDENT:

19 I have the honor to transmit herewith HB 1006 which has been adopted by the House and
20 your concurrence is respectfully requested.

21 Also MR. PRESIDENT:

22 I have the honor to return herewith SB 53 and 57 which have passed the House without
23 change.

1 Also MR. PRESIDENT:

2 I have the honor to transmit herewith HB 1057, 1083, 1151, 1171, and 1233 which have
3 passed the House and your favorable consideration is respectfully requested.

4 Respectfully,
5 Arlene Kvislen, Chief Clerk

6 **MOTIONS AND RESOLUTIONS**

7 HCR 1006: A CONCURRENT RESOLUTION, Petitioning the President of the United
8 States and the Department of State to authorize the Keystone XL Pipeline.

9 Was read the first time, the President waived the referral to committee, and placed
10 HCR 1006 on the calendar of Thursday, February 14, the 23rd legislative day.

11 SCR 1: A CONCURRENT RESOLUTION, Urging action by Congress on agricultural
12 issues and the federal farm bill.

13 Was read the second time.

14 Sen. Lucas moved that SCR 1 as found on page 372 of the Senate Journal be adopted.

15 The question being on Sen. Lucas' motion that SCR 1 be adopted.

16 And the roll being called:

17 Yeas 33, Nays 2, Excused 0, Absent 0

18 Yeas:

19 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
20 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
21 Novstrup (Al); Olson (Russell); Peters; Rampelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;
22 Tieszen; Van Gerpen; Vehle; Welke; White

23 Nays:

24 Omdahl; Otten (Ernie)

25 So the motion having received an affirmative vote of a majority of the members-elect, the
26 President declared the motion carried and SCR 1 was adopted.

1 Sen. Olson moved that SB 159 and 138 be deferred to Friday, February 15, the 24th
2 legislative day.

3 Which motion prevailed.

4 **CONSIDERATION OF REPORTS OF COMMITTEES**

5 Sen. Olson moved that the reports of the Standing Committees on
6 Education on SB 76 as found on page 369 of the Senate Journal; also
7 Appropriations on SB 31 as found on page 371 of the Senate Journal; also
8 Commerce and Energy on HB 1106 as found on page 370 of the Senate Journal be adopted.

9 Which motion prevailed.

10 **FIRST READING OF HOUSE BILLS AND JOINT RESOLUTIONS**

11 HB 1057: FOR AN ACT ENTITLED, An Act to make an appropriation for costs related
12 to suppression of wildfires in the state and to declare an emergency.

13 Was read the first time and referred to the Committee on Appropriations.

14 HB 1083: FOR AN ACT ENTITLED, An Act to revise the crime of rustling to include
15 sheep and goats.

16 Was read the first time and referred to the Committee on Agriculture and Natural
17 Resources.

18 HB 1151: FOR AN ACT ENTITLED, An Act to extend general immunity from liability
19 for directors and officers of certain nonprofit fire and ambulance departments and to limit
20 certain actions for personal injury or death.

21 Was read the first time and referred to the Committee on Judiciary.

22 HB 1171: FOR AN ACT ENTITLED, An Act to exempt certain property from bankruptcy
23 levy.

24 Was read the first time and referred to the Committee on Judiciary.

1 HB 1233: FOR AN ACT ENTITLED, An Act to grant limited immunity for the provision
2 of voluntary medical services under certain circumstances.

3 Was read the first time and referred to the Committee on Health and Human Services.

4 **SECOND READING OF CONSENT CALENDAR ITEMS**

5 HB 1097: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to an
6 employer's denial of workers' compensation claims.

7 Was read the second time.

8 The question being "Shall HB 1097 pass?"

9 And the roll being called:

10 Yeas 35, Nays 0, Excused 0, Absent 0

11 Yeas:

12 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
13 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
14 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
15 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

16 So the bill having received an affirmative vote of a majority of the members-elect, the
17 President declared the bill passed and the title was agreed to.

18 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

19 SB 215: FOR AN ACT ENTITLED, An Act to provide procedures by which adopted
20 persons may obtain their original birth certificates.

21 Was read the second time.

22 The question being "Shall SB 215 pass?"

23 And the roll being called:

24 Yeas 16, Nays 19, Excused 0, Absent 0

25 Yeas:

26 Adelstein; Bradford; Buhl; Frerichs; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher;
27 Rampelberg; Soholt; Sutton; Tidemann; Tieszen; Welke

1 Nays:

2 Begalka; Brown; Ewing; Heineman (Phyllis); Holien; Hunhoff (Jean); Jensen; Johnston;
3 Monroe; Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rave; Rhoden; Van
4 Gerpen; Vehle; White

5 So the bill not having received an affirmative vote of a majority of the members-elect, the
6 President declared the bill lost.

7 Sen. Buhl announced her intention to reconsider the vote by which SB 215 lost.

8 SJR 1: A JOINT RESOLUTION, Proposing and submitting to the electors at the next
9 general election an amendment to Article III, section 6 of the Constitution of the State of South
10 Dakota, relating to legislative terms and legislative term limits.

11 Was read the second time.

12 The question being "Shall SJR 1 pass?"

13 And the roll being called:

14 Yeas 19, Nays 16, Excused 0, Absent 0

15 Yeas:

16 Adelstein; Begalka; Frerichs; Heineman (Phyllis); Jensen; Johnston; Jones; Lederman; Maher;
17 Novstrup (Al); Olson (Russell); Otten (Ernie); Peters; Rave; Sutton; Tieszen; Vehle; Welke;
18 White

19 Nays:

20 Bradford; Brown; Buhl; Ewing; Holien; Hunhoff (Jean); Kirkeby; Krebs; Lucas; Monroe;
21 Omdahl; Rempelberg; Rhoden; Soholt; Tidemann; Van Gerpen

22 So the resolution having received an affirmative vote of a majority of the members-elect,
23 the President declared the resolution passed and the title was agreed to.

24 SB 166: FOR AN ACT ENTITLED, An Act to revise the number of years that permits to
25 carry a concealed weapon are valid.

26 Was read the second time.

27 The question being "Shall SB 166 pass?"

28 And the roll being called:

29 Yeas 35, Nays 0, Excused 0, Absent 0

1 Yeas:

2 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
3 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
4 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
5 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

6 So the bill having received an affirmative vote of a majority of the members-elect, the
7 President declared the bill passed and the title was agreed to.

8 SB 207: FOR AN ACT ENTITLED, An Act to make certain legislative findings
9 concerning federal infringement on Second Amendment rights.

10 Was read the second time.

11 Sen. Lucas requested a fiscal note on SB 207.

12 Which request was supported.

13 SB 157: FOR AN ACT ENTITLED, An Act to revise the distribution from the wind energy
14 tax fund.

15 Having had its second reading was up for reconsideration and final passage.

16 The question being "Shall SB 157 pass as amended?"

17 And the roll being called:

18 Yeas 27, Nays 8, Excused 0, Absent 0

19 Yeas:

20 Adelstein; Begalka; Bradford; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien; Hunhoff
21 (Jean); Jensen; Jones; Kirkeby; Krebs; Lederman; Maher; Monroe; Otten (Ernie); Rampelberg;
22 Rave; Rhoden; Soholt; Sutton; Tieszen; Van Gerpen; Vehle; Welke; White

23 Nays:

24 Brown; Johnston; Lucas; Novstrup (Al); Olson (Russell); Omdahl; Peters; Tidemann

25 So the bill having received an affirmative vote of a two-thirds majority of the members-
26 elect, the President declared the bill passed and the title was agreed to.

27 SB 151: FOR AN ACT ENTITLED, An Act to clarify the maintenance responsibilities on
28 unimproved section lines.

1 Was read the second time.

2 The question being "Shall SB 151 pass as amended?"

3 And the roll being called:

4 Yeas 35, Nays 0, Excused 0, Absent 0

5 Yeas:

6 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
7 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
8 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
9 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

10 So the bill having received an affirmative vote of a majority of the members-elect, the
11 President declared the bill passed and the title was agreed to.

12 SB 198: FOR AN ACT ENTITLED, An Act to revise the membership of the Judicial
13 Qualifications Commission.

14 Was read the second time.

15 The question being "Shall SB 198 pass as amended?"

16 And the roll being called:

17 Yeas 34, Nays 1, Excused 0, Absent 0

18 Yeas:

19 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
20 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
21 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
22 Soholt; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

23 Nays:

24 Sutton

25 So the bill having received an affirmative vote of a majority of the members-elect, the
26 President declared the bill passed and the title was agreed to.

27 SB 10: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to contract
28 for the construction of swine teaching and research facilities at South Dakota State University
29 and to make an appropriation therefor.

30 Was read the second time.

1 The question being "Shall SB 10 pass?"

2 And the roll being called:

3 Yeas 32, Nays 3, Excused 0, Absent 0

4 Yeas:

5 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
6 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Novstrup (Al);
7 Olson (Russell); Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;
8 Tieszen; Van Gerpen; Vehle; Welke; White

9 Nays:

10 Maher; Monroe; Omdahl

11 So the bill having received an affirmative vote of a two-thirds majority of the members-
12 elect, the President declared the bill passed and the title was agreed to.

13 SB 11: FOR AN ACT ENTITLED, An Act to authorize the Board of Regents to contract
14 for the construction of an indoor practice and human performance facility on the campus of
15 South Dakota State University and to make an appropriation therefor.

16 Was read the second time.

17 The question being "Shall SB 11 pass?"

18 And the roll being called:

19 Yeas 32, Nays 3, Excused 0, Absent 0

20 Yeas:

21 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
22 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Novstrup (Al);
23 Olson (Russell); Otten (Ernie); Peters; Rempelberg; Rave; Rhoden; Soholt; Sutton; Tidemann;
24 Tieszen; Van Gerpen; Vehle; Welke; White

25 Nays:

26 Maher; Monroe; Omdahl

27 So the bill having received an affirmative vote of a two-thirds majority of the members-
28 elect, the President declared the bill passed and the title was agreed to.

29 SB 189: FOR AN ACT ENTITLED, An Act to make appropriations from the water and
30 environment fund, the water pollution control revolving fund subfund, and the drinking water
31 revolving fund subfund for various water and environmental purposes and to declare an
32 emergency.

1 Was read the second time.

2 The question being "Shall SB 189 pass?"

3 And the roll being called:

4 Yeas 35, Nays 0, Excused 0, Absent 0

5 Yeas:

6 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
7 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
8 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
9 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

10 So the bill having received an affirmative vote of a two-thirds majority of the members-
11 elect, the President declared the bill passed and the title was agreed to.

12 SB 111: FOR AN ACT ENTITLED, An Act to amend provisions of the Uniform
13 Commercial Code relating to electronic funds transfers and to declare an emergency.

14 Was read the second time.

15 The question being "Shall SB 111 pass?"

16 And the roll being called:

17 Yeas 35, Nays 0, Excused 0, Absent 0

18 Yeas:

19 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
20 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
21 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
22 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

23 So the bill having received an affirmative vote of a two-thirds majority of the members-
24 elect, the President declared the bill passed and the title was agreed to.

25 SB 190: FOR AN ACT ENTITLED, An Act to make an appropriation to fund tax refunds
26 for elderly persons and persons with a disability, to revise the income eligibility requirements
27 for property and sales tax refunds, and to declare an emergency.

28 Was read the second time.

29 The question being "Shall SB 190 pass as amended?"

30 And the roll being called:

1 Yeas 35, Nays 0, Excused 0, Absent 0

2 Yeas:

3 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Frerichs; Heineman (Phyllis); Holien;
4 Hunhoff (Jean); Jensen; Johnston; Jones; Kirkeby; Krebs; Lederman; Lucas; Maher; Monroe;
5 Novstrup (Al); Olson (Russell); Omdahl; Otten (Ernie); Peters; Rampelberg; Rave; Rhoden;
6 Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Vehle; Welke; White

7 So the bill having received an affirmative vote of a two-thirds majority of the members-
8 elect, the President declared the bill passed and the title was agreed to.

9 SB 194: FOR AN ACT ENTITLED, An Act to extend the sunset date for certain
10 expenditures from a school district's capital outlay fund.

11 Was read the second time.

12 The question being "Shall SB 194 pass?"

13 And the roll being called:

14 Yeas 29, Nays 6, Excused 0, Absent 0

15 Yeas:

16 Adelstein; Begalka; Bradford; Brown; Buhl; Ewing; Holien; Hunhoff (Jean); Jensen; Johnston;
17 Jones; Kirkeby; Krebs; Lederman; Maher; Monroe; Novstrup (Al); Olson (Russell); Omdahl;
18 Otten (Ernie); Rampelberg; Rave; Soholt; Sutton; Tidemann; Tieszen; Van Gerpen; Welke;
19 White

20 Nays:

21 Frerichs; Heineman (Phyllis); Lucas; Peters; Rhoden; Vehle

22 So the bill having received an affirmative vote of a majority of the members-elect, the
23 President declared the bill passed and the title was agreed to.

24 Sen. Olson moved that the balance of the calendar including HB 1019, 1020, 1091, 1011,
25 1071, 1072, 1073, 1074, 1125, 1127, and 1070 be deferred to Thursday, February 14, the 23rd
26 legislative day.

27 Which motion prevailed.

28 **SIGNING OF BILLS**

29 The President publicly read the title to

SB 53: FOR AN ACT ENTITLED, An Act to expand the application of the farm decal system.

SB 57: FOR AN ACT ENTITLED, An Act to define a biodiesel producer and bulk plant operator and revise certain statutory references and to make certain form and style changes regarding motor fuel taxation.

HB 1047: FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the examination for an application for a funeral service license.

And signed the same in the presence of the Senate.

COMMEMORATION

SC 12 Introduced by: Senators Jones, Bradford, Buhl, Ewing, Frerichs, Heineman (Phyllis), Holien, Johnston, Kirkeby, Krebs, Lederman, Lucas, Novstrup (Al), Olson (Russell), Omdahl, Rampelberg, Sutton, Tieszen, Welke, and White and Representatives Ring, Bartling, Duvall, Ecklund, Feickert, Feinstein, Gibson, Hawks, Hawley, Heinert, Hickey, Hunhoff (Bernie), Johns, Kaiser, Killer, Kirschman, May, Novstrup (David), Parsley, Peterson, Qualm, Rozum, Schoenfish, Schrempp, Soli, Stalzer, Steele, Tyler, Verchio, and Wismer

A LEGISLATIVE COMMEMORATION, Commending and honoring the Parker State Class B Boys Cross Country Champions.

WHEREAS, the Parker team coached by Phil Bjorneberg and consisting of cross country runners Duane Jongeling, Michael Olson, Ryan Olson, Jake Vollmer, and Tristen Erickson worked together to achieve success, earning the 2012 State Class B Boys Cross Country Championship; and

WHEREAS, Duane Jongeling received his third first-place finish in the State Class B Cross Country Meet held at Broadland Creek Golf Course, Huron, on October 20, 2012; and

WHEREAS, the Parker High School Boys Cross Country Team became only the fifth Class B or Class A team to win three consecutive state-meet championships:

NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-Eighth Legislature of the State of South Dakota, that the Parker State Class B Boys Cross Country Champions and coach Phil Bjorneberg are congratulated on a great 2012 season.

Sen. Omdahl moved that the Senate do now adjourn, which motion prevailed and at 4:22 p.m. the Senate adjourned.

Jeannette Schipper, Secretary